

APPEAL NO. 022699
FILED DECEMBER 12, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on October 3, 2002. The hearing officer resolved the disputed issues by deciding that the respondent (claimant) sustained a compensable injury on _____; that the claimant had disability beginning on February 12, 2002, and continuing through the date of the CCH; and that the appellant (carrier) is not relieved from liability in this matter as a result of the claimant's alleged failure to timely notify her employer pursuant to Section 409.001. The carrier appeals, arguing that the determinations are not supported by the credible evidence submitted at the CCH. The appeal file does not contain a response from the claimant.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant sustained a compensable injury; that she timely reported her injury; and that she had disability beginning February 12, 2002, through the date of the hearing. Those determinations involved questions of fact for the hearing officer to resolve. Conflicting evidence was presented on these issues.

TIMELY REPORTING

Section 409.001(a) provides in part that "[a]n employee or a person acting on the employee's behalf shall notify the employer of the employee of an injury not later than the 30th day after the date on which: (1) the injury occurs; . . . [Emphasis supplied.]" The carrier argues on appeal that a telephone voice message is not adequate for notice of injury to an employer. The hearing officer noted that the general manager for the employer testified that she did not recall the message from the claimant's daughter, but that the statement from the claimant's daughter "contains a wealth of detail, is supported by [the daughter's] phone records, and is credible." Additionally, there was some evidence in the form of a statement from the claimant's husband that the employer had received the message and told the claimant not to worry, the employer would take care of everything. The hearing officer's determination that the claimant timely reported her injury was supported by sufficient evidence.

COMPENSABILITY AND DISABILITY

The claimant had the burden to prove that she sustained a compensable injury as defined by Section 401.011(10) and that she had disability as defined by Section 401.011(16). The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence and decides what facts the evidence has established

(Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). Nothing in our review of the record reveals that the hearing officer's injury, notice, and disability determinations are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Thus, no sound basis exists for us to reverse the challenged determinations on appeal. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986). This is so even though another fact finder might have drawn other inferences and reached other conclusions. Salazar, et al. v. Hill, 551 S.W.2d 518 (Tex. Civ. App.-Corpus Christi 1977, writ ref'd n.r.e.).

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **TEXAS MUTUAL INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**MR. RUSSELL R. OLIVER, PRESIDENT
221 WEST 6TH STREET
AUSTIN, TEXAS 78701.**

Margaret L. Turner
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Susan M. Kelley
Appeals Judge